

III. REMARKS

Claims 1-17 and 19-21 are pending in this application. By this amendment, claims 1, 9, 16, 17, 19 and 21 have been amended, and claim 18 has been canceled. Applicant does not acquiesce in the correctness of the rejections and reserves the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicant reserves the right to pursue the full scope of the subject matter of the original claims in a subsequent patent application that claims priority to the instant application. Reconsideration in view of the following remarks is respectfully requested.

In the Office Action, claims 1-6, 8-14, 16 and 21 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Souza (U.S. Patent No. 4,000,578), hereafter "Souza." Claims 17-19 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Souza. Claims 7, 15 and 20 have been indicated as containing allowable subject matter. Applicants gratefully appreciate the indication of allowable subject matter.

A. REJECTION OF CLAIMS 1-6, 8-14, 16 and 21 UNDER 35 U.S.C. §102(b)

With regard to the 35 U.S.C. §102(b) rejection over Souza, Applicant asserts that Souza does not teach each and every feature of the claimed invention. Specifically, with respect to independent claim 1, Applicant submits that Souza fails to disclose the claimed invention including a retractable engaging member that engages the second jaw without hindering movement of the trap to a closed position. Similarly, with regard to claim 21, Souza fails to disclose, *inter alia*, means for holding the trap to the base without hindering movement of the trap to a closed position. In contrast, the Souza invention is a trigger assembly that holds the trap

in the set position until it is stepped on by an animal. Col. 3, lines 9-21. The Souza assembly does this by positioning the trap legs adjacent to pairs of abutment pins, which prevent movement of the jaws to the closed position. Col. 5, line 12; col. 5, lines 33-34; FIGS. 1-4, items 72 and 74. Accordingly, Applicant respectfully requests withdrawal of these rejections.

With regard to claim 9, Souza never teaches, *inter alia*, a body-gripping trap including a trigger for releasing each jaw to close upon activation. In contrast, Souza's device is a trigger mechanism meant to replace the trigger of the trap itself. Col. 1, line 11 to col. 2, line 59. Souza never discloses that the trap used with the Souza trigger assembly has another trigger. In fact, the presence of another trigger on the trap itself would cause the Souza trigger assembly not to function. Applicant submits that the provision of the particular trigger in claim 9 is not disclosed in Souza. Accordingly, Applicant respectfully requests that the Office withdraw its rejection.

With respect to dependent claims, Applicant herein incorporates the arguments presented above with respect to independent claims from which the dependent claims depend. Furthermore, Applicant submits that all dependant claims are allowable based on their own distinct features. Since the cited art does not teach each and every feature of the claimed invention, Applicant respectfully requests withdrawal of this rejection.

B. REJECTION OF CLAIMS 17-19 UNDER 35 U.S.C. §103(a)

With regard to the Office's 35 U.S.C. §103(a) rejection of claims 17-19 over Souza, Applicant herein incorporates the arguments presented above with respect to independent claim 9. Specifically, Souza provides a trigger mechanism, and as a result, fails to teach or suggest the

claimed invention including the steps of setting the trap in addition to the steps of engaging the trap for support, as recited in claim 17.

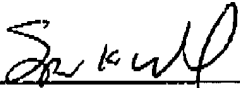
Applicant submits that all dependant claims are allowable based on their own distinct features. However, for brevity, Applicant will forego addressing each of these rejections individually, but reserves the right to do so should it become necessary. Accordingly, Applicant respectfully requests that the Office withdraw its rejection.

IV. CONCLUSION

In light of the above, Applicant respectfully submits that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the number listed below.

Respectfully submitted,

Date: September 22, 2004



Spencer K. Warnick
Reg. No. 40,398

Hoffman, Warnick & D'Alessandro LLC
Three E-Comm Square
Albany, New York 12207
(518) 449-0044
(518) 449-0047 (fax)